

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 495 of 2001
(Old No. 4009/87)

Ghananand Joshi
Advocate, S/o Sri Narain Dutt Joshi
R/o Ramella Mohalla
P.S. Haldwani, District Nainital Applicant

Versus

Sri Charanjit Sharma
S/o Sri Thakur Dass
R/o Sindhi Bhawan, Mukhali
Haldwani, District Nainital Respondent

Hon'ble Prafulla C. Pant, J

Heard Shri Lalit Sharma, learned counsel for the applicant and learned A.G.A. for the State.

2. By means of this petition, moved under Section 482 of Code of Criminal Procedure, 1973 (for brevity herein after referred as Cr.P.C.) the petitioner has sought quashing of the proceedings in criminal complaint case No. 11 of 1987 Charanjit Sharma V. Ghananand Joshi, under Section 500 of I.P.C., P.S. Haldwani, District Nainital.

3. Brief facts of the case are that the petitioner, an Advocate, was engaged, as counsel by one Vijay Kumar in criminal complaint case No. 39 of 1986 Tara Dutt Vs. Vijay Kumar. It appears that on 21.07.1986, as a counsel for the accused, the petitioner asked a question to a witness Inder Singh Rawat regarding the

fact if he knows Charanjeet Sharma (another witness in said case and complainant of criminal case No. 11 of 1987), was a history sheeter. Aggrieved by said examination, from the perusal of the copy of the complaint case No. 11 of 1987, it appears that Charanjit Sharma, filed complaint against Ghananand Joshi, Advocate, with a prayer to summon him for an offence punishable under Section 500 I.P.C. On 31.01.1987, the trial court after recording the statement of the complainant under Section 200 of Cr.P.C. and perusal of the copy of the statement of Inder Singh Rawat (in criminal complaint case No. 39 of 1986), directed to summon the accused (present petitioner) for his trial relating to offence, punishable under Section 500 I.P.C.

4. The First Exception to Section 499, provides that it is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. The ninth Exception of the same Section further provides that it is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

5. Learned counsel for the petitioner, drew attention of this Court to Annexure-3 to the petition, which prima facie, shows that Charanjit Sharma was a history sheeter in the criminal record of the Detective

Department of Calcutta. That being so, since it is a true fact, as such, the act on the part of the petitioner cannot be said to be an offence punishable under Section 500 I.P.C. Not only this, since the petitioner was acting in good faith for his client to protect his interest, as such, the question put by him to the witness Inder Singh Rawat regarding the character of Charanjit Sharma is a protected statement under Exception 9 and cannot be said to be punishable under Section 500 I.P.C.

6. Assuming that what the complainant Charanjit Sharma (present respondent) has alleged in the criminal complaint case No. 11 of 1987, be taken true even then in view of the above discussion, being covered under aforesaid exceptions, the alleged act does not amount to an offence punishable under Section 500 I.P.C.

7. Therefore, the petition under Section 482 Cr.P.C. is allowed, and proceedings in criminal complaint case No. 11 of 1987, Charanjit Sharma Vs. Ghananand relating to offence punishable under Section 500 I.P.C. pending in the court of Additional Civil Judge (Jr. Div.)/ Judicial Magistrate, Haldwani are hereby quashed.

Dt. 26.09.2006
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(Prafulla C. Pant, J.)